

Exhibit A

State Court Pleadings

FILED
Electronically
CV21-00929

2021-05-18 11:36:20 AM

Alicia L. Lerud
Clerk of the Court

Transaction # 8450440 : yvilia

DISTRICT COURT CIVIL COVER SHEET

WASHOE County, Nevada

Case No. *(Assigned by Clerk's Office)***I. Party Information** (provide both home and mailing addresses if different)

| | |
|--|--|
| Plaintiff(s) (name/address/phone): Francisco Ibarra-Gonzalez | Defendant(s) (name/address/phone): MTM Transit, LLC; Does I through X; and Roe Entities I through X, inclusive |
| Attorney (name/address/phone): Adriana G. Fralick, Esq. | Attorney (name/address/phone): unknown |
| 1699 S. Virginia St., Ste. 202 Reno, NV 89502 775-453-9595 | |

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

| Real Property | Torts | |
|---|--|---|
| Landlord/Tenant <input type="checkbox"/> Unlawful Detainer (UD) <input type="checkbox"/> Other Landlord/Tenant (LT) | Negligence <input checked="" type="checkbox"/> Auto (VP) <input type="checkbox"/> Premises Liability (SF) <input type="checkbox"/> Other Negligence (NO) | Other Torts <input type="checkbox"/> Product Liability (PL) <input type="checkbox"/> Intentional Misconduct (IM) <input type="checkbox"/> Employment Tort (WT) <input type="checkbox"/> Insurance Tort (IN) <input type="checkbox"/> Other Tort (TO) |
| Title to Property <input type="checkbox"/> Judicial Foreclosure (FC) <input type="checkbox"/> Other Title to Property (OT) | Malpractice <input type="checkbox"/> Medical/Dental (MD) <input type="checkbox"/> Legal (LG) <input type="checkbox"/> Accounting (AG) <input type="checkbox"/> Other Malpractice (MG) | |
| Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain (CD) <input type="checkbox"/> Other Real Property (RO) | | |
| Probate | Construction Defect & Contract | Judicial Review/Appeal |
| Probate (select case type and estate value) | Construction Defect <input type="checkbox"/> Chapter 40 (CQ) <input type="checkbox"/> Other Construction Defect (CF) | Judicial Review <input type="checkbox"/> Foreclosure Mediation Case (FO) <input type="checkbox"/> Petition to Seal Records (PS) <input type="checkbox"/> Mental Competency (MT) |
| <input type="checkbox"/> Summary Administration (SU) <input type="checkbox"/> General Administration (FA) <input type="checkbox"/> Special Administration (SL) <input type="checkbox"/> Set Aside (SE) <input type="checkbox"/> Trust/Conservatorship (TN) <input type="checkbox"/> Other Probate (OP) | Contract Case <input type="checkbox"/> Uniform Commercial Code (UN) <input type="checkbox"/> Building and Construction (BC) <input type="checkbox"/> Insurance Carrier (BF) <input type="checkbox"/> Commercial Instrument (CI) <input type="checkbox"/> Collection of Accounts (CT) <input type="checkbox"/> Employment Contract (EC) <input type="checkbox"/> Other Contract (CO) | Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle (DM) <input type="checkbox"/> Worker's Compensation (SI) <input type="checkbox"/> Other Nevada State Agency (ON) |
| <input checked="" type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500 | | Appeal Other <input type="checkbox"/> Appeal from Lower Court (CA) <input type="checkbox"/> Other Judicial Review/Appeal (AO) |
| Civil Writ | Other Civil Filing | |
| Civil Writ <input type="checkbox"/> Writ of Habeas Corpus (HB) <input type="checkbox"/> Writ of Mandamus (WM) <input type="checkbox"/> Writ of Quo Warrant (WQ) | <input type="checkbox"/> Writ of Prohibition (WP) <input type="checkbox"/> Other Civil Writ (WO) | Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim (CM) <input type="checkbox"/> Foreign Judgment (FJ) <input type="checkbox"/> Other Civil Matters (GC) |

Business Court filings should be filed using the Business Court civil coversheet.

May 17, 2021

Date

Signature of initiating party or representative

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Alicia L. Lerud
Clerk of the Court
Transaction # 8450440 : yviloria

1 ADRIANA GUZMÁN FRALICK, ESQ.
2 NV Bar No. 9392
3 AGF LAW
4 1699 S. Virginia Street, Suite 202
5 Reno, Nevada 89502
6 775-453-9595 | 775-453-9778 fax
7 E-Mail: adriana@adrianalawnevada.com
8 *Attorney for Plaintiff*

9
10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
11
12 **IN AND FOR THE COUNTY OF WASHOE**

13 FRANCISCO IBARRA-GONZALEZ,

14 Case No.:
15 Dept. No.:

16 Plaintiff,

17 vs.

18 MTM TRANSIT, LLC; DOES I through X; and
19 ROE ENTITIES I through X, inclusive,

20 Defendants.

21
22 **COMPLAINT**

23 COMES NOW, Plaintiff, by and through his attorney of record, ADRIANA GUZMÁN
24 FRALICK, ESQ. of AGF Law, and for his Complaint against Defendants, and each of them,
25 states, asserts, and alleges as follows:

26
27 **GENERAL ALLEGATIONS**

28 1. Plaintiff, FRANCISCO IBARRA-GONZALEZ, is and was, at all times relevant to
these proceedings, a resident of Reno, State of Nevada.

29 2. Upon information and belief, Defendant MTM TRANSIT, LLC ("MTM"), is and
30 was, at all times relevant to these proceedings, a Missouri Foreign Limited-Liability Company
31 continually doing business in the State of Nevada.

32 3. Upon information and belief, Defendants DOES I through X and ROE ENTITIES
33 I through X, are and were, at all times relevant to these proceedings, residents of Reno, State of
34 Nevada.

1 4. The true names and capacities of Defendants named herein as DOES I through X,
2 and ROE ENTITIES I through X, whether individual, corporate, associate, or otherwise, are
3 presently unknown to Plaintiff, who, therefore, sues said Defendants so designated herein by
4 fictitious names. Plaintiff is informed and believes and therefore alleges that DOES I through X,
5 and ROE ENTITIES I through X are responsible in some manner for the events and occurrences
6 referred to herein and caused damages proximately to Plaintiff as alleged herein. Plaintiff will
7 request leave of Court to amend this Complaint to insert the true names and capacities of DOES I
8 through X, and ROE ENTITIES I through X, when the same have been ascertained, and join such
9 Defendants in this action together with the proper charging allegations.

10 5. Plaintiff is informed and believes and thereon alleges that each of the Defendants
11 named herein were agents, servants, employees, or joint ventures of every other Defendant herein
12 and, at all times mentioned herein, were acting within the course and scope of said agency,
13 employment, or joint venture with knowledge, permission, and consent of all other named
14 Defendants. Pursuant to NRS 41.130, said Defendants' negligence is imputed to every other
15 Defendant herein.

16 6. Specifically, upon information and belief, Defendant DOES I was the driver of the
17 transport vehicle and an employee of Defendant MTM or MTM ratified the conduct of said driver
18 actually or implicitly and therefore, is responsible for driver's actions under the doctrine of
19 Respondeat Superior at the time of the subject incident on or about December 3, 2020.

20 7. Upon information and belief, Defendant DOES I, while acting by and through
21 Defendants and each of them, was obligated to adhere to its operating procedures, rules,
22 regulations, instructions, and other written documents to ensure the safety of its passengers,
23 including Plaintiff's.

24 8. At all times relevant herein, Plaintiff believes Defendant MTM was at all times
25 mentioned in this Complaint, persons and/or entities who managed, controlled, maintained,
26 inspected, leased, and/or owned the transport vehicle at issue in this Complaint wherein Plaintiff
27 was a passenger.

28 9. On or about December 3, 2020, Plaintiff was a passenger in the transport vehicle

1 owned and operated by MTM that was transporting Plaintiff from his dialysis treatment at DaVita
2 Dialysis Reno to his home.

3 10. On or about December 3, 2020, the transport vehicle owned and operated by MTM,
4 was parked at the Plaintiff's apartment complex located at 446 Kirman Avenue, Reno, Nevada for
5 purposes of delivering Plaintiff to his home after his scheduled dialysis appointment.

6 11. At the same time and place, Defendant DOES I negligently failed to use due care
7 by leaving Plaintiff unattended at the time of exiting the transport vehicle, such that while being in
8 wheelchair status, control was lost, and Plaintiff fell violently to the ground.

9 12. As a result of the above-described incident, Plaintiff suffered severe orthopedic
10 injuries and is sequelae.

11 **JURISDICTIONAL STATEMENT**

12 13. The Second Judicial District Court has jurisdiction of this civil tort action pursuant
13 to NRCP 8(a)(4), NRS 13.040, and NRS 41.130, as the occurrence giving rise to this matter took
14 place in Reno, Nevada, and the amount in controversy is in excess of \$15,000.00.

15 **FIRST CLAIM FOR RELIEF**

16 **(Negligence)**

17 14. Plaintiff repeats and realleges the allegations above, as though fully set forth
18 herein.

19 15. On or about December 3, 2020, Plaintiff was a passenger in a transport vehicle
20 owned and operated by MTM.

21 16. Upon information and belief, Plaintiff had utilized the services of MTM for
22 transport between Plaintiff's home and DaVita Reno Dialysis Center numerous times before the
23 negligent incident claimed in this matter.

24 17. Upon information and belief, Defendant DOES I, the driver of said transport
25 vehicle, was acting by and through Defendant MTM and in the course and scope of his
26 employment.

27 18. Upon information and belief, Defendants knew or should have known that Plaintiff
28 was orthopedically compromised, blind, hearing impaired, and not fluent in the English language.

19. Defendant DOES I, acting by and through Defendants and each of them, owed a heightened duty of care to transport Plaintiff in a careful and prudent manner.

20. Defendants breached said heightened duty of care in failing to attend to Plaintiff which was the cause in fact and proximate cause of all damages alleged herein.

21. Plaintiff suffered general damages, including but not limited to, severe fractures to his hip and femur, exacerbation of his pre-existing renal disease, mental anguish, pain, suffering, loss of enjoyment of life, past, present, and future, all in an amount in excess of \$15,000.00.

22. Plaintiff has suffered special damages, including but not limited, to past, present, and future all in an amount in excess of \$15,000.00.

23. The medical specials to date far exceed the jurisdictional criteria for the arbitration program of the Second Judicial District Court and should be exempt from it. The present medical specials far exceed \$100,000.00.

24. Plaintiff has been compelled to retain the services of an attorney to prosecute this action and is, therefore, entitled to reasonable attorney's fees and costs incurred herein.

SECOND CLAIM FOR RELIEF

(Negligence Per Se)

25. Plaintiffs repeat and reallege the allegations above, as though fully set forth herein.

26. At all times relevant herein, Defendant DOES I and employees named as DOES and ROE ENTITIES herein, were employees and/or agents of Defendant MTM, and were acting within the course and scope of their employment.

27. MTM had a duty to train and instruct its employees and agents it allows to transport disabled people typical of Plaintiff.

28. Upon information and belief, Plaintiff asserts that Defendants possessed and were obligated to adhere to Defendants' own operating procedures, rules, regulations, instructions, and other written documents ensuring the safety of its passengers, including that of Plaintiff.

29. Plaintiff is the type of person intended to be protected by said operating procedures, rules, regulations, instructions, and other written documents and the injuries Plaintiff suffered were the type to be protected against and by said rules.

1 30. Upon information and belief, Defendants violated their own operating procedures,
2 rules, regulations, instructions, and other written documents causing Defendants to be negligent
3 per se.

4 31. Plaintiff suffered general damages, including but not limited to, severe fractures to
5 his hip and femur, exacerbation of his pre-existing renal disease, mental anguish, pain, suffering,
6 loss of enjoyment of life, past, present, and future, all in an amount in excess of \$15,000.00.

7 32. Plaintiff suffered special damages, including but not limited to, past, present, and
8 future all in an amount in excess of \$15,000.00.

9 33. The medical specials to date far exceed the jurisdictional criteria for the arbitration
10 program of the Second Judicial District Court and should be exempt from it.

11 34. Plaintiff has been compelled to retain the services of an attorney to prosecute this
12 action and is, therefore, entitled to reasonable attorney's fees and costs incurred herein.

PRAYER FOR RELIEF

15 WHEREFORE, Plaintiff prays for judgment on all claims for relief against Defendants,
16 and each of them, as follows:

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1 5. For such other relief as the Court deems just and proper.

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3 DATED this 17 day of May 2021.

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5 **AGF LAW**

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ADRIANA G. FRANCK, ESQ.
AGF LAW
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Reno, Nevada 89502
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adriana@adrianalawnevada.com
Attorney for Plaintiff

AFFIRMATION

Pursuant to NRS 239B.030 and 603A.040

The undersigned does hereby affirm that the preceding document, COMPLAINT, does not contain the personal information of any person.

Dated this 1 of May, 2021.

ADRIANA G. FRATICK, ESQ.
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Reno, Nevada 89502
775-453-9595 | 775-453-9778 fax
adriana@adrianalawnevada.com
Attorney for Plaintiff

1 Code: 4085
2

3 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
4
5 IN AND FOR THE COUNTY OF WASHOE

6 FRANCISCO IBARRA-GONZALEZ,
7

Plaintiff,
vs.

8 MTM TRANSIT, LLC; DOES I through X; and
9 ROE ENTITIES I through X, inclusive,

10 Defendants.

Case No.: CV21-00929
Dept. No.: 7

11 SUMMONS

12 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE
13 AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN
14 WRITING WITHIN 21 DAYS. READ THE INFORMATION BELOW VERY
CAREFULLY.**

15 A civil complaint has been filed by the plaintiff against you for the relief as set forth in that
16 document (see complaint).

17 1. If you wish to defend this lawsuit, you must, within 21 days after service of this
summons, exclusive of the day of service:

18 a. File with the Clerk of the Court, whose address is shown below, a **formal written**
19 **answer** to the complaint, along with the appropriate filing fees, in accordance with
the rules of the Court, and;
20 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and
address is shown below.

21 2. Unless you respond, a default will be entered upon application of the plaintiff(s), and this
Court may enter a judgment against you for the relief demanded in the complaint.

22 Dated this 18th day of May, 2021.

23 Issued on behalf of Plaintiff(s):

24 Adriana G. Fralick, Esq.

25 AGF Law

26 1699 S. Virginia Street, Ste. 202

27 Reno, NV 89502

28 775-453-9595

adriana@adrianalawnevada.com

ALICIA L. LERUD
CLERK OF THE COURT

By:/S/YVILORIA

Deputy Clerk

Second Judicial District Court

75 Court Street, Reno, NV 89501